



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JIGJr: 09-04

Paper No: ____

LAW OFFICE OF TIMOTHY M. BARLOW
P.O. BOX 64775
TUCSON AZ 85728-4775

COPY MAILED

SEP 30 2004

In re Application of	:	
Busuito	:	OFFICE OF PETITIONS
Application No. 10/820,340	:	ON PETITION
Filed/Deposited: 8 April, 2004	:	
Attorney Docket No. BUS-001	:	

This is a decision on the petition filed on 16 August, 2004, nominally as a response to the Notice of Omitted Items, and considered under 37 C.F.R. §1.53, to obtain a filing date of 8 April, 2004, for Pages 3 and 11 of the Specification (Description).

For the reasons set forth below, the petition is **DISMISSED**.

BACKGROUND

This application was deposited on 8 April, 2004.

On 5 August, 2004, the Office mailed a Notice of Omitted Items in a Nonprovisional Application (the 5 August Notice) indicating that, while a filing date had been accorded, it appeared that Page(s) 3 and 11 (Specification (description)) had been omitted. Further, Petitioner was reminded that the alternatives were to accept the filing date and the application in the form deposited, or submit evidence (date stamped receipt card) that the Office received the pages in question (along with substitute copies of the pages), or submit the omitted items (pages) and accept the new filing date as of the date of their submission.

Petitioner submitted a petition, fee, copies of what purports to be Pages 3 and 11 of the Specification (Description) and a copy of a receipt card.

Analysis

A search of the official file reveals that on 8 April, 2004, Petitioner deposited the instant application with 9 pages of specification (pages 1 - 2, and 4 - 10), 4 pages of claims (pages 12 - 15), 1 page abstract (page 16), and 4 sheets of drawings Figures 1 - 4. At that time and that deposit neither Pages 3 nor 11 accompanied the application as deposited.

Petitioner's date-stamped receipt card ("040804") sets forth the contents received by the Office, inter alia, as:

	* * *
Specification 11 pages with Abstract	
20 Claims on 4 pages	
	* * *
4 Drawing on 4 Pages	
	* * *

Here the issue is determination as to whether Petitioner intended that his statement meant that the 11 pages included both Specification and Abstract, or that there were 11 pages of Specification plus a page of Abstract.

At this writing, Petitioner has failed to specify which meaning was intended. Petitioner may submit such a statement in support of a renewed petition, if any, in this regard and do so within two (2) months of the date of this decision.

CONCLUSION

The petition is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)¹
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

¹ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-0025
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

The instant application is released to OIPE for further processing as necessary consistent with this decision, maintaining the original application filing date of 8 April, 2004, using the application papers filed on that date, and an indication that drawing Pages 3 and 11 **were not present on filing**, before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

A handwritten signature in black ink, appearing to be 'John J. Gillon, Jr.', with a stylized, cursive script.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions